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6 *Attorney for Defendants Messner Reeves LLP
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

0 TACSI APC, a California corporation; and KENT LIMSON, an individual,

Case No.: 2:24-cv-02284-RFB-EJY

v. Plaintiffs,

**MESSNER REEVES, LLP AND
TORBEN WELCH'S UNOPPOSED
MOTION TO STAY DISCOVERY**

JACKIE ROBINSON, an individual; ALL NET LAND DEVELOPMENT, LLC, a Nevada Limited Liability Company; ALL NET, LLC, a Nevada Limited Liability Company; DRIBBLE DUNK, LLC, a Nevada Limited Liability Company; AGS ASSURETY, LLC, a Nevada Limited Liability Company; TIMOTHY J. ARELLANO, an individual; DAVID LOWDEN, an individual; MESSNER REEVES LLP, a Colorado Limited Liability Partnership; TORBEN WELCH, an individual; LORING JACOBS, an individual, and DOES 1 THROUGH 100 INCLUSIVE,

Defendants.

Defendants Messner Reeves LLP, and Torben Welch (collectively, “Attorney Defendants”), by and through their attorneys at the law offices of GORDON REES SCULLY MANSUKHANI, LLP, move to stay discovery in this case pending a determination of Attorney Defendants’ Motion to Dismiss.

Counsel for Attorney Defendants conferred with Plaintiffs' counsel regarding the proposed motion on February 12, 2025. Plaintiffs do not oppose Attorney Defendants' request.

This Motion is made and supported by the attached memorandum of points and authorities and all papers and pleadings on file herein.

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1 DATED this 12th day of February 2025.

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10 **GORDON REES SCULLY**
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12 */s/ Jackie Nichols*
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17 *Attorney for Defendants Messner Reeves*
18 *LLP and Torben Welch*

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20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **I. INTRODUCTION**

22 This case arises from a series of loans to fund the construction of a basketball arena and
23 family resort in Las Vegas. When the loans were not repaid Plaintiffs initiated litigation against
24 the borrower and related entities in the United States District Court for the Central District of
25 California in February 2020. That case was dismissed, and Plaintiffs filed a new action in the Los
26 Angeles Superior Court in November 2020. Some of the defendants in the state court action were
27 represented by attorneys from the law firm of Messner Reeves, LLP. This representation began
28 *after* those defendants engaged in the alleged conduct that forms the basis for Plaintiffs' RICO
claim. Plaintiffs have now initiated this action based on the same allegations, asserting a claim
under the Racketeer Influenced and Corrupt Organization Act ("RICO").

Attorney Defendants have moved to dismiss Plaintiffs' Complaint for failure to state a
claim upon which relief may be granted, since Plaintiffs do not allege Attorney Defendants were
involved in the predicate acts, and they do not allege any injury resulting from Attorney
Defendants' conduct. [ECF No. 35]. Attorney Defendants request that the court stay discovery
pending a ruling on the Motion to Dismiss.

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30 **II. LEGAL ANALYSIS**

31 Under Fed. R. Civ. P. 26(c)(4), a district court may limit discovery "for good cause."

1 *Wood v. McEwen*, 644 F.2d 797, 801 (9th Cir. 1981). “When deciding whether to issue a stay, a
 2 court must take a ‘preliminary peek’ at the merits of the dispositive motion pending in the case.”
 3 *Whittemore v. Anderson Fin. Servs., LLC*, No. 2:19-cv-01951-GMN-EJY, 2020 WL 1430377, at
 4 *1 (D. Nev. Mar. 20, 2020) (citing *Buckwalter v. Nevada Bd. of Medical Examiners*, No. 2:10-
 5 cv-02034-KJD-GWF, 2011 WL 841391, at *1 (D. Nev. March 7, 2011)). This “preliminary
 6 peek” is not intended to prejudge the outcome of the underlying motion, but rather “to evaluate
 7 the propriety of an order staying or limiting discovery.” *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D.
 8 597, 603 (D. Nev. 2011). The goal, under Fed. R. Civ. P. 1, is to “decide whether it is more just
 9 to speed the parties along in discovery and other proceedings while a dispositive motion is
 10 pending, or whether it is more just to delay or limit discovery and other proceedings to
 11 accomplish the inexpensive determination of the case.” *Id.* In making this determination, “the
 12 court must consider whether the pending motion is potentially dispositive of the entire case, and
 13 whether that motion can be decided without additional discovery.” *Whittemore*, 2020 WL
 14 1430377, at *1 (citing *Tradebay*, 278 F.R.D. at 602).

15 A stay is appropriate where a pending motion to dismiss “demonstrates a likelihood of
 16 success” with respect to an argument that a plaintiff fails plead RICO claims with particularity.
 17 *Navajo Health Found. - Sage Mem'l Hosp., Inc. v. Razaghi Dev. Co.*, No. 2:19-cv-00329-GMN-
 18 EJY, 2021 WL 1397229, at *6 (D. Nev. Jan. 15, 2021). A stay is also appropriate where a
 19 Plaintiff “does not appear to claim any personal injury arising from” the violation of a predicate
 20 RICO act. *Whittemore*, 2020 WL 1430377, at *2. *See also Schrader v. Wynn Las Vegas, LLC*,
 21 No. 2:19-cv-02159-JCM-BNW, 2021 WL 4810324, at *5 (D. Nev. Oct. 14, 2021) (finding it
 22 would be prejudicial to Defendants to proceed with discovery where RICO claims would be
 23 dismissed if pending dispositive motions were granted).

24 Here, the predicate acts underlying Plaintiffs’ RICO claim are wire fraud in connection
 25 with a series of loans made to Defendant All Net, LLC, and guaranteed by Defendant Jackie
 26 Robinson. [ECF No. 1, ¶ 54]. Plaintiffs do not allege that Attorney Defendants participated in
 27 these predicate acts, but only that Defendant Jackie Robinson paid Attorney Defendants (with the
 28 implication being Attorney Defendants received racketeering income). [Id. ¶ 22]. As Attorney

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1 Defendants note in their Motion to Dismiss, the allegation of receipt of racketeering income is
 2 insufficient for liability to attach under RICO. *See Grider v. Texas Oil & Gas Corp.*, 868 F.2d
 3 1147, 1149 (10th Cir. 1989) (“Significantly, the statute does not state that it is unlawful to *receive*
 4 racketeering income; rather … the statute prohibits a person who *has received* such income *from*
 5 *using or investing it* in the proscribed manner.”) (emphasis in original). *See also Nugget*
 6 *Hydroelectric, L.P. v. Pacific Gas & Elec. Co.*, 981 F.2d 429, 437 (9th Cir. 1992) (adopting
 7 *Grider*).

8 The only allegations related to Attorney Defendants’ conduct concern a “secondary
 9 enterprise,” by which Attorney Defendants “associated with several known and convicted
 10 felons” to entice businesses to provide funds in the form of loan fees. [ECF No. 1, ¶¶ 42–43].
 11 The only injuries alleged are related to the unpaid loans. [Id. at 16:15–16]. Because Plaintiffs do
 12 not allege Attorney Defendants actually participated in the operation or management of the
 13 enterprise conducting the pattern of racketeering activity that gives rise to their RICO claim, they
 14 fail to state a claim against Attorney Defendants. Even if Plaintiffs’ allegations about the
 15 “secondary enterprise” were true, Plaintiffs do not allege any predicate acts of racketeering
 16 conducted by the secondary enterprise with the specificity required by Rule 9(b). Moreover, they
 17 do not claim their funds were among those client funds allegedly siphoned off, and they do not
 18 allege that they were victims of the BELOC scheme. That is, they do not allege that *they* were
 19 injured by the conduct of this secondary enterprise. They do not allege any connection between
 20 this “secondary enterprise” and the predicate acts of wire fraud underlying their RICO claim.

21 Even if Plaintiffs plausibly allege that Attorney Defendants participated in the conduct at
 22 the heart of the Complaint, their claim would be barred by the statute of limitations. Plaintiffs
 23 previously initiated lawsuits based on the same conduct alleged here in federal and state courts in
 24 California. Those other lawsuits establish that Plaintiffs have been aware of the injury underlying
 25 their Complaint for more than four years, which means their RICO claim accrued outside the
 26 statute of limitations for a civil RICO claim. For these reasons Plaintiffs’ claims are subject to
 27 dismissal under Rule 12(b)(6).

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III. CONCLUSION

For the reasons given above, Defendants Messner Reeves LLP and Torben Welch request that the Court stay discovery in this matter pending a ruling on their Motion to Dismiss.

DATED this 13th day of February 2025.

**GORDON REES SCULLY
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/s/ Jackie Nichols

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*Attorney for Defendants Messner Reeves
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ORDER

IT IS SO ORDERED:

United States Magistrate Judge Elayna J. Youchah

DATED: